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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/090,743

03/06/2002

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1614.1223

5251

21171 7590 07/17/2007
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EXAMINER

ARAQUE JR, GERARDO

ART UNIT

PAPER NUMBER

3629

MAIL DATE

DELIVERY MODE

07/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/090,743	Applicant(s) YOSHIDA, TOMOKO	
	Examiner Gerardo Araque Jr.	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 2001-190920, filed on June 25, 2001.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 1 and 8 – 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Geerlingss (US Patent 6,073,112)**.
4. In regards to **claims 1 and 9**, **Geerlings** discloses, "...communication system of the present invention accounts for individual shopping behavior of the consumer and tailors the communication accordingly (with respect to content and timing (i.e., when to contact the consumer)(Column 1 Lines 51 – 56)." Moreover, "the dynamic or continual resegmentation of customers based on changes in shopping activity/behavior ensures that pertinent and timely communications are made (automated) by the present invention system (Column 3 Lines 40 – 43)." Furthermore, "...the present invention communication system automates preparation and transmission of written and/or verbal communications based on behavior (e.g., shopping activity) of customers (Column 3 Lines 16 – 20)."

Geerlings further discloses that the system, "...tailors the communication accordingly (with respect to content and timing (i.e., when to contact the consumer) (Column 1 Lines 54 – 56)." Moreover, the system determines the appropriate time to contact the individual based on, "...cumulative purchase behavior of a consumer, historic behavior or expected future behavior, or any combination thereof (Column 2 Lines 26 – 30)."

Further still, as best understood by the examiner, **Geerlings** also discloses that necessary information regarding the individual is stored in the database and is accessed when needed, such as retrieving the modified images of the individual that will be attached to the notification. Moreover, an "...Event History Subtable **26** is formed of records indicating the various so-called events **37**...with which a customer has been involved. That is, each record identifies (i) a customer by customer number, and (ii) an even **37c** by even number ("Event NR"). The even number serves as a cross reference to a record in the strategy database **21** where the even is predefined by the merchant. (Column 6 Lines 50 – 57).

Geerlings fails to disclose the system to be used for visiting a hair salon.

However, Geerlings discloses a system for enhancing and improving communications from a merchant to his customers (Col. 3 L. 15 – 17). One skilled in the art would have found it obvious to use the system disclosed by Geerlings as an effective means of communicating information to its customers to visit a hair salon based on the customers prior behaviors.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to use the teachings of Geerlings as a means of communicating necessary visiting information to the merchants' customers.

5. In regards to **claim 8**, Geerlings discloses wherein the second database stores indications of desired communication including indications of times for initiating communications and indications of contents of communications. As discussed above one skilled in the art would have found it obvious to use the system disclosed by Geerlings as an effective means of communicating information to its customers to visit a hair salon based on the customer's prior behaviors.

6. **Claims 4 – 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Geerlings (US Patent 6,073,112)** in view of **Blancato (US Patent 4,823,285)**.

7. In regard to **claims 4 – 7**, **Geerlings** discloses a computer system that gathers information, which is stored within 2 databases (Column 2 Lines 18 – 25), about an individual's shopping behavior and times the communication with the individual based the individual's shopping behavior (Column 1 Lines 51 – 56; Column 2 Lines 26 – 30). The first database stores identification and demographics of recipients while the second databases stores desired communication. It would be obvious to one of ordinary skill that the data stored in the databases do not necessarily need to be exactly the same information as is found in Geerlings, but to what would be suitable to the person using the system, such as the information disclosed by Blancato, which will be discussed later. Moreover, the system uses the information that was gathered about the individual in order to transmit information at the appropriate time interval that may interest the

individual through various communication means (Column 5 Lines 39 - 46; Column 14 Lines 24 - 30).

However, Geerlings fails to show that the databases contain information of hairstyles that the individual would like.

Blancato discloses a method of capturing an image of an individual and digitally modifying the individual's current hairstyle with various hairstyles that the individual may be interested in having (Column 2 Lines 1 - 17). The image is then modified in order to place the image of the face and the new hairstyle together on a screen (Column 2 Lines 1 - 17). The various modifications are then stored and would obviously be held under file for later dates for when the individual would like to try something new and different.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include Blancato's method of storing information concerning various hairstyles interests, that an individual would want, with that of Geerlings so that when an automatic notification is sent to an individual for a haircut appointment, based on the individual's past record of periodic visits, can be attached with images of possible hairstyle that the individual may like.

Response to Arguments

8. Applicant's arguments filed 5/7/07 have been fully considered but they are not persuasive.

Rejection under 35 USC 103

9. Applicant has only amended the claims such that the limitations found in canceled claims 2 and 3 are now included in independent claims 1 and 4. The

Examiner has already addressed those limitations above and in the previous Office Action. The applicant has also further amended the claims to include the further limitation of:

“storing in a customer management information database upon the customer’s visit to a hair salon, customer information, the customer information comprising a hair length, a hair type, a hair growth rate, a customer preferences, an images of a customer’s face, a date of hair cut and hair cut intervals.”

The applicant has also cited column 5 lines 13 – 18 of Geerlings, however, the Examiner believes that the applicant meant to cite column 6 lines 13 – 18.

Nevertheless, the Examiner asserts that one skilled in the art would have found it obvious that Geerlings’s teaching of demographic data would have obviously included a customer’s hair description when the merchant is a hair salon.

10. In response to applicant's argument that the “prior art fails to teach the correlation between the database of hairstyles and a customer preference, as well as, information such as hair type, length, etc...as the customer and hairstylist are present when the decision as to hairstyle is made,” a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

11. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

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any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

12. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the applicant argues that Geerlings does not store the type of information required to make a suggestion as to a hairstyle. However, as discussed above, the information stored within Geerlings system is dependent on the merchant using the system. One skilled in the art would have found it obvious that a hair salon would store information regarding hair.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

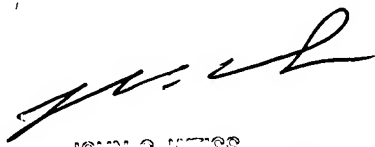
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GA
6/2/07



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